

**SUMMARY OF INCIDENT:**

On August 16, 2015, police responded to a call of a man climbing over a fence, officers approached Subject 1 and instructed him to come outside of the fence of the residence for the purpose of a field interview. Subject 1 refused to follow the instructions and reached for a firearm. Subject 1 was tased, arrested and transported to the 010<sup>th</sup> District Station.

**ALLEGATIONS:**

On October 14, 2015, Intake Aide 1 received a letter from **Complainant Subject 1** and registered a complaint on his behalf. It is alleged that on 16 August 2015, at approximately 0410 hours, in the vicinity of XXXX S. Trumbull Ave., **Officer A, star XXXXX and Officer B, star XXXXX**:

- 1) Punched Subject 1 on his face, in violation of Rule 8.
- 2) Kicked Subject 1 on his face, in violation of Rule 8.
- 3) Tased Subject 1 without justification, in violation of Rule 8.
- 4) Pointed a weapon at Subject 1 without justification, in violation of Rule 38.
- 5) Falsely charged Subject 1 with possession of a weapon, in violation of Rule 2.

**APPLICABLE RULES AND LAWS:**

**Rule 2:** Prohibits any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.

**Rule 8:** Prohibits disrespect to or maltreatment of any person, while on or off duty.

**Rule 38:** Prohibits unlawful or unnecessary use or display of a weapon.

**INVESTIGATION:**

In his letter submitted to IPRA, **Complainant Subject 1** reported that on September 16, 2015,<sup>1</sup> at 5:00 am, he was beaten by several unidentified Chicago Police Officers. Subject 1 stated that while he was knocking on the door of the mother of his children, several unidentified officers arrived and asked him to open the gate. Subject 1 reported that when he opened the gate the officers punched him about his face and tased him. Subject 1 stated that he was transported to the hospital for medical treatment and later transported to the police station. Subject 1 denied having a firearm in his possession. Subject 1 stated that he sustained injuries to his face.

In an interview IPRA on November 5, 2015, **Complainant Subject 1** stated similar information as he reported in his letter to IPRA. Subject 1 added that on August 15, 2015, he attended a party with Civilian 1. Subject 1 drove Civilian 1 home on August 16, 2015, at approximately 1:00 am and returned to the party. Subject 1 stated that he returned to Civilian 1's residence at approximately 4:00 am. Subject 1 stated that Civilian 1 resides on the first floor of a two-story building with a black six foot wrought iron fence.

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<sup>1</sup> According to Department reports, Subject 1 was arrested on 16 August 2015.

Subject 1 stated that while he was on the front porch, Officer B and Officer A arrived. Subject 1 added that Officer B and Officer A had their weapons drawn and instructed him to open the gate. Subject 1 stated that he opened the gate and one of the officers grabbed him by his left wrist and punched him about the left side of his face without cause. Subject 1 stated that he fell to the ground and one of the officers kicked him about his face and tased him. Subject 1 stated that he was later told that someone called to report a break in.

Subject 1 stated that he does not reside with Civilian 1 but Civilian 1 knew that he was coming back after the party. Subject 1 stated that he later learned that Civilian 1 signed a complaint stating that Subject 1 had attempted to unlawfully enter the residence. Subject 1 stated that Civilian 1 informed him that she signed the complaints not knowing that he was the person under arrest and further that she did not call the police. Subject 1 stated that he consumed two alcoholic beverages while at the party and denied being intoxicated. Additionally, Subject 1 stated that he did not resist arrest and denied having a firearm in his possession. Subject 1 stated that he was falsely charged by the accused officers. (Atts. 4, 7, 9)

In her interview with IPRA on March 22, 2017<sup>2</sup> **Witness Civilian 1** stated that she and Subject 1 have a son in common and that they have not been in a relationship for approximately seven years. Civilian 1 related that on August 15, 2015, she took her son to Subject 1's family reunion. Civilian 1 stated that she observed Subject 1 consume alcoholic beverages while at the family reunion. Civilian 1 had no knowledge as to the type of alcoholic beverages Subject 1 had consumed or how many alcoholic beverages he consumed. Civilian 1 stated that as she was leaving the family reunion she informed Subject 1 not to come to her residence because he was intoxicated. Civilian 1 related that she knew Subject 1 was intoxicated because he was staggering.

Civilian 1 stated that she left the family reunion with her son and her cousin, Civilian 3 (NFI). Civilian 1 explained that after Civilian 3 dropped her off at home, she went to bed. Civilian 1 stated that several hours later as she was asleep in her bedroom, which is located on the first floor and near the front of the residence, she heard the front gate rattling. Civilian 1 related that her god-sister, Civilian 2, was asleep in the living room, which is located in the front of the residence. Civilian 1 stated that she and Civilian 2 observed an unidentified male, now known as Subject 1, attempting to jump over the six foot wrought iron gate in front of her residence. Civilian 1 added that it was too dark outside to see Subject 1's face.

Civilian 1 stated that she called the police and informed the dispatcher that an unidentified male was trespassing on her property. Civilian 1 stated that moments later, she observed the police lights and heard a male officer state words to the effect of, "open the gate." Civilian 1 heard Subject 1 explain that the mother of his child resided at the location. Civilian 1 stated that while Civilian 2 was looking out of the window near the front porch, Civilian 2 stated that the officers had jumped over the wrought iron gate and tased Subject 1. At the same time, Civilian 1 heard a male officer state words to the effect of, "Yeah he's got a gun." Civilian 2 told Civilian 1 that as Subject 1 was tased, an object fell from his person. However, Civilian 2 never learned what that object was.

Civilian 1 stated that she did not witness any contact between Subject 1 and the arresting officers. Civilian 1 stated that she received a subpoena for Civilian 2 at her residence and informed Civilian 2 of the subpoena. Upon inquiry Civilian 1 related that she contacted Civilian 2 via Facebook. Civilian 1 stated that she does not have any additional contact information for Civilian 2. Upon inquiry, Civilian 1 stated that she did not recall informing IPRA investigators that she observed Subject 1 resist the police. Civilian 1 related that she did not see Subject 1 the night of his arrest as he was placed inside the squad car. Civilian 1 stated that after learning that Subject 1 was the trespasser she signed the complaint forms. (Att. 48 – 49)

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<sup>2</sup> It should be noted that Civilian 1 appeared at IPRA to give a statement after receiving a subpoena. Prior to the subpoena, the R/I made several documented attempts to contact Civilian 1.

Attempts were made to interview **Witness Civilian 2**. On January 11, 2016, the R/I telephoned Civilian 2 and spoke with a female who identified herself as Civilian 2. Civilian 2 identified herself as Civilian 1's sister. Civilian 2 related that she observed Subject 1 jumped over the fence while in possession of a gun. Civilian 2 stated that she called the police. Civilian 2 added that when the police arrived Subject 1 resisted arrest. Civilian 2 scheduled an appoint to come to IPRA and give a formal statement on January 12, 2016 but failed to appear. On September 29, 2016, the R/I telephoned Civilian 2 and spoke with a female who identified herself as Civilian 2. Civilian 2 stated that she no longer wanted to give a statement to IPRA regarding the incident. (Att. 43, 52, 53)

According to **Department Reports** Subject 1 was arrested on 16 August 2015, at approximately 0417 hours, at XXXX S. Trumbull Avenue. Subject 1 was charged with Unlawful Use of Weapon (Possession of firearm), Criminal Trespass, and two (2) counts of Aggravated Assault. It is reported that the arresting officers responded to a call of a burglary in progress at the location of the incident. Upon arrival the arresting officers observed a black male, now known as Subject 1, matching the description that they received via Department radio.

The report details that Officer B ordered Subject 1 to open the gate and Subject 1 refused. Officer B then jumped the gate and observed Subject 1 reach and pick-up a firearm. Officer B wrapped his arms around Subject 1. Officer A jumped over the gate and observed Subject 1 point the firearm in his direction. Officer A immediately grabbed the firearm out of Subject 1's hand. An emergency take down was performed and Subject 1 refused to place his hands behind his back. Officer A tased Subject 1 and Subject 1 was placed in custody. Subject 1 was transported to Mount Sinai Hospital for medical treatment. It is reported that Subject 1 was received in lockup with injuries to his face (NFI). (Atts. 10, 11)

According to the **Tactical Response Report (TRR)** completed by Officer B, Subject 1 did not follow verbal direction, stiffened, pulled away and was imminent threat of battery (picked up a weapon). Officer B responded with member presence, verbal commands, wristlock and take down/emergency handcuffing. (Att. 12)

According to the **Officer Battery Report (OBR)** completed by Officer B, Officer B did not sustain any pain or injuries. (Att. 13)

According to the **TRR** completed by Officer A, Subject 1 did not follow verbal direction, stiffened, pulled away and was imminent threat of battery (picked up a weapon). Officer A responded with member presence, verbal commands, take down/emergency handcuffing, taser (contact stun), and kicks. (Att. 14)

According to the **OBR** completed by Officer A, Officer A did not sustain any pain or injuries. (Att. 15)

According to the **TASER Evidence Sheet**, Officer A utilized the taser on 16 August 2015, at 0415 hours for one (1) second. (Att. 16)

According to the **Chicago Police Department Inventory Sheet** one (1) Smith & Wesson handgun and five (5) .38 SPL Bullets were recovered from Subject 1' possession. (Att. 18)

According to the **Chicago Police Department OEMC** on 16 August 2015, at 0355 hours, a female caller "Civilian 2" stated that a black male wearing a green shirt, army pants and blue shoes jumped over the fence in front of her residence. "Civilian 2" also stated that the male does not live at the residence and she does not know who the male is. Beat XXXXX reported that the offender was in custody and a weapon was recovered at 0417 hours. Beat XXXXX transported Subject 1 to Mount Sinai Hospital at 0438 hours. (Att. 19 – 22, 26 – 27)

According to the **Medical Report** from Mount Sinai, Subject 1 was admitted to the emergency room on August 16, 2015, at approximately 5:47 am in police custody. It is reported that Subject 1 informed the medical personnel that he was attacked by multiple police officers and suffered from the trauma to his head and face. Subject 1 stated that he lost consciousness but was not sure as to how long. Subject 1 complained of pain to his neck and face. According to the CAT scan, at some point in time Subject 1 sustained an acute fracture of the bilateral nasal bones. Doctor A reported that he gave Subject 1 a referral to maxillofacial for apparent old skeletal injuries. Doctor A added that Subject 1 did not have tenderness of facial areas that correlate to CT abnormalities. Subject 1 was diagnosed with contusion to face and hand. (Att. 25)

During his interview with IPRA on June 30, 2016, **Accused Officer B, star XXXXX**, stated that he was conducting a routine patrol in the vicinity of the alleged incident when he received a call, via department radio, of a burglary in progress. Officer B stated that when he arrived at the location, he observed a black male, now known as Subject 1, matching the description given by OEMC. Officer B stated that Subject 1 was standing on the front porch of the location of the alleged incident. Officer B added that there was a 10-foot wrought-iron locked gate that prevented him and Officer A from walking onto the front porch.

Officer B stated that he and Officer A asked Subject 1 to come to them. Officer B added that Subject 1 informed them that his friends resided at the address of the alleged incident. Subject 1 walked down the stairs and stated words to the effect of, "What do you want?" Officer B asked Subject 1 to exit the gate. Subject 1 refused and walked up the stairs of the front porch. Officer B climbed over the locked gate and approached Subject 1. Officer B stated that as he approached Subject 1, Subject 1 walked towards the south corner of the front porch, kneeled down and appeared to be grabbing an object.

As Subject 1 was coming up from the ground, Officer B observed a pistol in Subject 1's right hand. Officer B immediately placed Subject 1 in a "bear hug." Subject 1 fully extended himself up and tried to swing Officer B off of his back. Officer B stated that at some point Officer A jumped over the locked gate. Officer B stated that Subject 1 waved the gun in Officer A's direction. Officer A grabbed the gun and removed it from Subject 1's right hand.

Officer B proceeded to conduct an emergency takedown. As Officer B conducted an emergency takedown, Subject 1 pushed off of Officer B. Officer B released his hold on Subject 1 and Subject 1 fell down the stairs. At some point, Officer B and Officer A grabbed Subject 1 and attempted to handcuff him. Subject 1 flailed his arms and Officer A employed a drive stun with a taser to Subject 1's body. The officers were then able to place handcuffs on Subject 1's wrists.

Officer B stated that a female, who resided in the building, came outside and opened the locked gate so that the officers and Subject 1 could exit. Officer B stated that while at the scene, the female who called the police stated that she did not recognize Subject 1.

Officer B stated that Officer D, star XXXXX and Officer C, star XXXXX (Beat XXXXX), arrived on the scene and transported Subject 1 to Mt. Sinai Hospital for medical treatment. Officer B added that Subject 1 sustained cuts and bruises to his face as a result from the fall. Officer B stated that Officer D and Officer C arrived to the scene after the incident. After observing photographs of Subject 1, Officer B stated that he observed the injuries to Subject 1 after the incident.

Officer B denied observing Officer A kick Subject 1 about his body. Officer B stated that he observed Officer A taser Subject 1 after giving Subject 1 directions to place his hands behind his back, as Subject 1 was resisting and flailing his arms. Officer B denied observing Officer A commit any additional acts. Officer B

denied removing his weapon from his holster. Officer B denied utilizing any equipment on his duty belt. Officer B denied committing the acts alleged against him. (Atts. 40, 41)

During his interview with IPRA on June 30, 2016, **Accused Officer A, star XXXXX** stated that on the date of the alleged incident he responded to a call via Department radio regarding a burglary in progress. Officer A stated that the dispatcher described the offender as a black male wearing green camouflage shorts and a green shirt. Officer A continued that upon arrival he observed an individual standing on the front steps of the residence matching the description given by OEMC. Officer A stated that there was a 6-foot wrought-iron locked gate that prevented him and Officer B from walking onto the front porch.

Officer A stated that he and Officer B asked Subject 1 to come to them. Officer A added that Subject 1 refused exit the locked gate and stated words to the effect of, "Go fuck yourself." Officer A stated that as Officer B climbed over the gate Subject 1 walked up the steps towards a corner on the porch. Officer A stated that Subject 1 picked up an object, now known to be a gun, and Officer B grabbed Subject 1 around his body.

Officer A stated that as Officer B struggled with Subject 1, Officer A climbed over the locked gate. Once Officer A climbed over the locked gate, he observed a gun in Subject 1' right hand. Officer A stated that Subject 1 pointed the gun in his direction. Officer A added that he was able to disarm Subject 1 by "yanking" the gun from his right hand. Officer A stated that Subject 1 continued to struggle with Officer B. At some point, Subject 1 fell down the steps and struck his face on a wrought-iron railing.

Officer A stated that he and Officer B approached Subject 1 while he was on the ground and attempted to handcuff him. Subject 1 continued to "fight" officers by throwing his elbows and flailing his arms to prevent the officers from placing the handcuffs on him. Officer A stated that he kicked Subject 1 on his shoulder during the handcuffing process in an attempt to get Subject 1 to comply. Officer A added that after Subject 1 failed to comply he conducted a drive stun to Subject 1's back area between his shoulder blades. Officer A stated that after the drive stun, he and Officer B successfully handcuffed Subject 1.

Officer A stated that he made notification regarding the discharge of his taser via Department radio and requested a sergeant. Officer A added that he secured Subject 1's weapon by unloading it and placing it in a bag. Officer A stated that Sergeant A, star XXXXX, Officer D, star XXXXX and Officer C, star XXXXX, arrived on the scene after Subject 1 had been handcuffed. Officer A stated that Sergeant A directed Officer D and Officer C to transport Subject 1 to Mount Sinai Hospital for medical treatment. Officer A added that Sergeant A directed him and Officer B to report to the 010<sup>th</sup> District Station to complete Department reports regarding Subject 1's arrest.

Officer A described Subject 1's weapon as a .32 Smith and Wesson revolver, silver in color and loaded with 5 rounds. Officer A stated that he noticed the scent of alcohol on Subject 1's person. Officer A stated that he observed a laceration to Subject 1's face. Officer A added that Subject 1 sustained his injury after striking his face on the railing.

Officer A stated that he and Officer B were able to escort Subject 1 out of the gate by unlocking it from the inside of the gate. Officer A stated that the lock was inaccessible from outside the gate as there was a crisscross pattern wrought-iron material near the lock area.

Officer A stated that he never unholstered his duty weapon. Officer A added that he unholstered his taser. Officer A stated that he kicked Subject 1 on his shoulder after he fell to the ground because he was flailing his arms and "throwing" elbows. Officer A denied kicking Subject 1 in his face. Officer A stated that he tased

Subject 1 because he was resisting arrest and flailing his arms. Officer A denied falsely arrested Subject 1. (Atts. #36, 42)

## CONCLUSION:

**Accused 1:** Officer A. #XXXXX  
**Allegations 1-5:** **Unfounded**

As to **Allegation 1** that Officer A punched Subject 1 in his face, IPRA recommends a finding of **Unfounded**. In his interview with IPRA, Subject 1 stated that the officers arrived at the scene, instructed him to open the gate and he complied. Subject 1 claimed that one of the officers grabbed him by his wrist and punched him about his face.

In contrast, Officer A denied punching Subject 1 about his face. Officer B also denied observing Officer A punch Subject 1 about his face. In their interviews with IPRA, Officer B and Officer A explained that when they arrived to the scene, they instructed Subject 1 to unlock the gate and Subject 1 refused. Officer B jumped over the fence and approached Subject 1 and observed Subject 1 walk over to a corner of the front porch and pick up a handgun. Officer B placed Subject 1 in a “bear hug” from behind to attempt to control Subject 1. Officer A jumped over the fence and disarmed Subject 1. According to both officers Subject 1 struggled and attempted to defeat his arrest. As a result Officer A employed a dry stun with his taser to gain compliance.

Civilian 1 and Civilian 2’s interviews with IPRA provide little assistance. Civilian 1 related in her interview that she did not witness the physical contact between Subject 1 and the arresting officers. Civilian 2 gave a general statement over the phone but refused to give a formal interview. However, portions of their statements undermine Subject 1 credibility and support the officer’s version of events. For example, Civilian 1 reported that she heard Officers request Subject 1 to open the gate and heard Subject 1 respond that the mother of his child lived at the house. Moreover, while Civilian 2 watched the action through a window Civilian 2 stated to Civilian 1 that the officers jumped the fence and an object fell from Subject 1 hands. Additionally, Civilian 1 heard officers say, “Yeah he has a gun.” Civilian 2 reported to R/I that she observed Subject 1 jump the fence while in possession of a gun and further, resisted the officer’s attempts to arrest.

Officer B and Officer A explained that during the struggle with Subject 1, Subject 1 fell down the steps, striking his face on the railing and the steps, causing injuries to his face. According to the medical records and evidence technician photographs, Subject 1 did sustain injuries to his face. However, as stated above both officers denied that Subject 1 was ever punched in the face. Subject 1’s testimony is not credible and in contrast the officers’ versions of events are corroborated by the witness statements. Therefore, based on a preponderance standard this allegation is unfounded

However, the Use of Force Option GO-03-02-02 IV C(1)(a) Direct mechanical strikes such as punches are within policy when the subject can be defined as an assailant. An assailant is defined as a subject who places a member of the Department in fear of receiving a battery. In the instant case, Subject 1 attempted to throw Officer B as Officer B placed Subject 1 in a bear hug. Additionally, Subject 1 was in possession of a gun at the time, and even after Subject 1 was disarmed, he continued to throw elbows and struggle with officers who finally used a

taser to control him. Officer A's TRR specifically says he was in fear of receiving a battery up and until the point he employed his taser. Given the circumstances, these officers showed restraint in choosing less lethal options to complete the arrest despite the danger to them.

As to **Allegation 2** that Officer A kicked Subject 1 about his face, IPRA recommends a finding of **Unfounded**. In his interview with IPRA, Subject 1 stated that one of the arresting officers kicked him about his face.

In his interview with IPRA, Officer A stated that he and Officer B approached Subject 1 while he was on the ground and attempted to handcuff him. Subject 1 continued to "throw" his elbows and flail his arms to prevent the officers from placing the handcuffs on him. Officer A stated that he kicked Subject 1 on his shoulder during the handcuffing process in an attempt to get Subject 1 to comply. Officer A added that after Subject 1 failed to comply he conducted a drive stun to Subject 1's back area between his shoulder blades. According to the TRR completed by Officer A, Subject 1 was an imminent threat of battery when he raised a handgun at Officer A.

As laid out in Allegation 1, according to the Use of Force Option GO-03-02-02 IV C(1)(a) Direct mechanical strikes, including punches and kicks are within policy when the subject can be defined as an assailant. An assailant is defined as a subject who places a member of the Department in fear of receiving a battery. In the instant case, Subject 1 was in possession of a gun at the time, and even after Subject 1 was disarmed, he continued to throw elbows and struggle with officers who finally used a taser to control him. A kick to the head of Subject 1 would be considered deadly force given Officer A described Subject 1 as on the ground; however a strike to the shoulder may be within policy.

The instant allegation is that Officer A kicked Subject 1 in the face. Given the inconsistencies between Subject 1's statements and that of both the officers and the witnesses, Subject 1's account is less credible than the officers. Additionally, Officer A denied kicking Subject 1 in the head but admitted to kicking Subject 1 to gain compliance, therefore bolstering his credibility. In his words, Subject 1 was fighting officer's attempts to control and cuff Subject 1. Therefore, Subject 1 was an assailant during the course of the interaction and Officer A was justified in using a direct mechanical strike. Based on a preponderance of the evidence this allegation is unfounded.

As to **Allegation 3** that Officer A tased Subject 1 without justification, IPRA recommends a finding of **Unfounded**. In his interview IPRA, Subject 1 claimed that when the officers arrived to the scene he complied with their request of opening the gate. Subject 1 also claimed that the arresting officers immediately entered the gate, grabbed him by his wrist, punched him about his face and kicked him about his face. According to Civilian 1, Civilian 2 informed her that the arresting officer jumped over the fence to detain Subject 1. Civilian 1 also stated that she heard one of the arresting officers state word to the effect of, "Yeah he has a gun." Civilian 1 also stated that Civilian 2 informed her that she observed an object fall from Subject 1 person after he was tased.

In his interview with IPRA, Officer B stated that he observed Subject 1 pick up a silver handgun from the corner of the front porch and immediately placed Subject 1 in a bear hug. Officer A observed Subject 1 holding the same handgun in his hand as Officer B struggled with Subject 1. Officer A added that during the struggle, Subject 1 pointed the handgun in his direction. Officer A stated that he tased after first attempting a direct mechanical strike (kick) to Subject 1 as Subject 1 fought with Officer B. Based on the available evidence, and as explained above, Officer A was within the Use of Force Policy when he used the taser to deliver a drive stun to Subject 1.

As to **Allegation 4** that Officer A pointed a weapon at Subject 1 without justification, IPRA recommends a finding of **Unfounded**. In his statement to IPRA, Subject 1 alleged that the arresting officer pointed a handgun

at him. As stated above, based on the credible statements of both Officer A and Officer B and the observations of Civilian 1 and Civilian 2 the evidence shows that Subject 1 possessed a handgun at the time officers approached. The officers deny ever upholstering their handguns. The officer's version of events makes sense under the conditions. First, both officers had to jump a six foot fence which would be difficult to do with a weapon in hand. Next, Officer B placed the defendant in a bear hug upon seeing Subject 1 pick up a gun. It would make no sense for Officer B to do that with a gun drawn as it would expose the gun to Subject 1. Additionally, when Officer A made it over the fence Officer B was engaged in a bear hug with Subject 1, it would make little sense for Officer A to draw a weapon and expose his partner Officer B to that danger. The evidence shows that they employed less lethal force even under circumstances where more force may have been justified. Officers used direct mechanical strikes and grappling techniques prior to resorting to a taser. Based on the available evidence, the allegation is unfounded.

As to **Allegation 5** that Officer A falsely charged Subject 1 with possession of a weapon, IPRA recommends a finding of **Unfounded**. In his statement to IPRA, Subject 1 denied having been in possession of the handgun. Officer A and Officer B report Subject 1 grabbed a gun from the porch. Civilian 1 related that she heard one of the officers' state "Yeah he has a gun." Civilian 1 also related that Civilian 2 informed her that she observed an object fall from Subject 1' person after he was tased. Based on the available evidence, Officer A was within the Department Policy to charge Subject 1 with possession of a weapon.

**Accused 2:**           **Officer B**  
**Allegations 1 - 5:**   **Unfounded**

As to **Allegation 1** that Officer B punched Subject 1 in his face, IPRA recommends a finding of **Unfounded**. As articulated in allegation 1 against Officer A, the evidence supports the officers' account that Subject 1 grabbed a gun as Officer B jumped the fence. Officer B put Subject 1 in a bear hug in an effort to complete the arrest and protect himself. The struggle continued until Officer A used his taser to drive stun Subject 1 and gain compliance. Based on Subject 1's actions, specifically grabbing the gun and continuing to swing his elbows and arms, use of direct mechanical strikes such as punches would have been within policy had they been used. However, Officers Officer A and Officer B deny punching Subject 1 at all. The evidence certainly meets the preponderance standard that Officers did not punch Subject 1.

As to **Allegation 2** that Officer B kicked Subject 1 about his face, IPRA recommends a finding of **Unfounded**. As articulated in allegation 2 against Officer A, the evidence supports the officers' account that Subject 1 grabbed a gun as Officer B jumped the fence. Officer B put Subject 1 in a bear hug in an effort to complete the arrest and protect himself. The struggle continued until Officer A used his taser to drive stun Subject 1 and gain compliance. Based on Subject 1's actions, specifically grabbing the gun and continuing to swing his elbows and arms, use of direct mechanical strikes such as kicks would have been within policy had they been used. Officers Officer A admitted to kicking Subject 1 in the shoulder but not the head. Officer B denied kicking Subject 1 at all. The evidence certainly meets the preponderance standard that Officer B did not kick Subject 1.

As to **Allegation 3** that Officer B tased Subject 1 without justification, IPRA recommends a finding of **Unfounded**. In his statement to IPRA, Subject 1 claimed that when the officers arrived to the scene he complied with their request of opening the gate. Subject 1 also claimed that the arresting officers immediately entered the gate, grabbed him by his wrist, punched him about his face, kicked him about his face and tased him. According to Civilian 1, Civilian 2 informed her that the arresting officer jumped over the fence to detain Subject 1. Civilian 1 also stated that she heard one of the arresting officers state word to the effect of, "Yeah he has a gun." Civilian 1 also stated that Civilian 2 informed her that she observed an object (NFI) fall from Subject 1 person after he was tased.

In his statement to IPRA, Officer B denied using his taser, stating that he had Subject 1 in a bear hug after Subject 1 picked up a handgun. Officer B stated that Officer A tased Subject 1. Based on the available evidence, Officer B did not discharge his taser.

As to **Allegation 4** that Officer B pointed a weapon at Subject 1 without justification, IPRA recommends a finding of **Unfounded**. In his interview with IPRA, Subject 1 alleged that the arresting officer pointed a handgun at him. As stated above, based on the credible statements of both Officers Officer A and Officer B and the observations of Civilian 1 and Civilian 2 the evidence shows that Subject 1 possessed a handgun at the time officers approached. The officers deny ever upholstering their handguns. The officers' version of events makes sense under the conditions. Officer B had to jump a six foot fence which would be difficult to do with a weapon in hand. Next, Officer B placed the defendant in a bear hug upon seeing Subject 1 pick up a gun. It would make no sense for Officer B to do that with a gun drawn as it would expose the gun to Subject 1. The evidence shows that the officers employed less lethal force even under circumstances where more force may have been justified. Officers used direct mechanical strikes and grappling techniques prior to resorting to a taser. Based on the available evidence, the allegation is unfounded.

As to **Allegation 5** that Officer B falsely charged Subject 1 with possession of a weapon, IPRA recommends a finding of **Unfounded**. In his statement to IPRA, Subject 1 denied having been in possession of the handgun. Officer A and Officer B report Subject 1 grabbed a gun from the porch. Civilian 1 related that she heard one of the officers' state "Yeah he has a gun." Civilian 1 also related that Civilian 2 informed her that she observed an object fall from Subject 1' person after he was tased. Based on the available evidence, Officer B was within the Department Policy to charge Subject 1 with possession of a weapon.

**FINDINGS:**

**Accused 1:**      **Officer A. Star XXXXX**  
**Allegations 1- 5:**      **Unfounded**

**Accused 2:**      **Officer B Star XXXXX**  
**Allegations 1- 5:**      **Unfounded**